

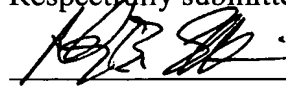
restriction/election of species requirement presented in the parent of the instant application, 09/331,397, which application was abandoned in favor of the present application. Therefore, applicants elect a method comprising the administration of a gestagen and an estrogen, and elect, for search purposes, as a species of gestagen, drospirenone, and as a species of estrogen, ethinylestradiol. Applicants request that the entire genus of gestagens and the entire genus of estrogens be examined if no prior art is found against the elected species. See, *e.g.*, MPEP § 803.02, which states that following election, a Markush-type claim [which this claim drawn to a genus of gestagens and of estrogens is] will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. “Should no prior art be found that anticipates or renders obvious the Markush-type claim, the search of the Markush-type claim will be extended.”

The restriction requirement is traversed, at least because no undue burden has been established for searching the full scope of the instant claims. Absent a serious burden of examination, restriction is not proper. See MPEP §803.

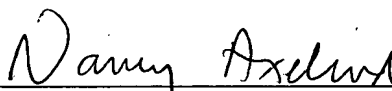
Applicants note that this application is a U.S. national phase of a PCT application, so PCT restriction rules apply. The various species of gestagens exhibit the same technical feature (they are gestagens) and the various species of estrogen exhibit the same technical feature (they are estrogens). The basis of patentability of the claims under consideration is the administration of a combination of a gestagen and an estrogen, not necessarily the administration of any particular species of gestagen or estrogen, *e.g.*, the elected species. Therefore, restriction among the claimed species is improper.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



Harry B. Shubin Reg. No. 32,004  
Attorney for Applicant(s)



Nancy J. Axelrod Reg. No. 44,014  
Patent Agent

MILLEN, WHITE, ZELANO  
& BRANIGAN, P.C.  
Arlington Courthouse Plaza 1, Suite 1400  
2200 Clarendon Boulevard  
Arlington, Virginia 22201  
Telephone: (703) 243-6333  
Facsimile: (703) 243-6410

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